

ATTACHMENT II
Text of Proposed New 19 TAC

Chapter 102. Educational Programs

**Subchapter KK. Commissioner's Rules Concerning Compliance Investigations in
Connection with State-Funded Education Program Grants**

§102.1401. Compliance Investigations.

- (a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Compliance investigation--An investigation by the Texas Education Agency (TEA) of a state education grant recipient to determine compliance with the statutory or rule requirements of a state education program. A compliance investigation is not a special accreditation investigation subject to the provisions of Texas Education Code (TEC), §39.057 and §39.058.
 - (2) Corrective action--An action required by the TEA, after issuance of a final compliance investigation report, of a state education grant recipient to remove an Out-of-Compliance Status, which may include, but is not limited to, the following:
 - (A) refunding of a portion of grant funds by the state education grant recipient to the TEA in an amount determined by the TEA to the extent the state education grant recipient failed to meet the requirements of a state education grant provision; and
 - (B) addressing the state education grant recipient's failure to meet the requirements of a state education grant provision.
 - (3) Out-of-Compliance Status--A status determined by the TEA in a final compliance investigation as described in subsection (g) of this section that a state education grant recipient has not met the requirements of an applicable state education grant provision or as provided in subsection (e) of this section.
 - (4) State education grant--A grant of funds authorized by the State of Texas to implement a state education program.
 - (5) State education grant recipient--An entity that receives state education grant funds to implement a state education program.
 - (6) State education program--A program authorized and funded by the State of Texas to facilitate the education of children.
- (b) The TEA may initiate a compliance investigation at its discretion or upon receipt of a complaint from a person or entity other than the TEA.
- (c) The TEA may undertake a compliance investigation on site, as a desk review, or as a combination of both.
- (d) The TEA shall provide written notice to a state education grant recipient of an impending compliance investigation.
- (e) The refusal of a state education grant recipient to cooperate with a compliance investigation may result in the assignment of an Out-of-Compliance Status by the TEA to the state education grant recipient. An Out-of-Compliance Status assigned due to lack of cooperation with a compliance investigation may be removed at the TEA's discretion upon its determination that a state education grant recipient has provided the information the TEA requested.
- (f) Pursuant to §157.1121(6) of this title (relating to Applicability), a compliance investigation is subject to the procedures set out in Chapter 157, Subchapter EE, of this title (relating to Informal Review, Formal Review, and Review by State Office of Administrative Hearings). A final compliance investigation report and/or corrective action is not subject to further appeal, including any appeal otherwise available under TEC, §7.057.

- (g) The TEA will provide any final compliance investigation report and/or corrective action plan to the superintendent/chief executive officer and the governing board of the state education grant recipient that is the subject of such final compliance investigation report, along with any recommendations of the TEA regarding any necessary improvements or sources of aid.
- (h) Upon receipt of additional information from the state education grant recipient regarding completion of its corrective action plan, the TEA will review the information. If the information demonstrates completion or substantial completion of the corrective action plan, the TEA will remove the Out-of-Compliance Status and notify the state education grant recipient of the removal of the Out-of-Compliance Status.
- (i) An Out-of-Compliance Status may bar the receipt of future discretionary state education grant funds and may disqualify future discretionary state education grant applications.
- (j) The commissioner may, at the commissioner's discretion, waive the effects of an Out-of-Compliance Status.